MONTANA LEGISLATIVE HISTORY

Chapter 217 1995

Bill H 188 S _____ Original bill & history ✓ C

H. Committee on Taxation			S. Committee on Taxation		
Hearing Date(s)	_____	___C	Hearing Date(s)	_____	___C
	1/20	✓ C		3/6	✓ C
	_____	___C		_____	___C
	_____	___C		_____	___C
Date Out	3/9	✓ C		3/9	✓

Did this bill originate in an interim committee? ✓ Yes ___ No

Committee Judicial Report Included

unification & Finance committee

3/28	2ND READING CONCURRED	49	0
3/29	3RD READING CONCURRED	45	0
	RETURNED TO HOUSE WITH AMENDMENTS		
4/03	2ND READING AMENDMENTS CONCURRED	98	1
4/04	3RD READING AMENDMENTS CONCURRED	97	2
4/06	SIGNED BY SPEAKER		
4/07	SIGNED BY PRESIDENT		
4/10	TRANSMITTED TO GOVERNOR		
4/14	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 458		
	EFFECTIVE DATE: 04/14/95		

HB 187 INTRODUCED BY MENAHAN, ET AL.

PLACE THE FORENSIC FACILITY AT WARM SPRINGS, MONTANA, UNDER THE ADULT CORRECTIONS COMPONENT OF DEPARTMENT OF CORRECTIONS AND HUMAN SERVICES

BY REQUEST OF THE DEPARTMENT OF CORRECTIONS AND HUMAN SERVICES

1/13	INTRODUCED
1/13	FIRST READING
1/13	REFERRED TO HUMAN SERVICES & AGING
1/14	FISCAL NOTE REQUESTED
1/18	FISCAL NOTE RECEIVED
1/19	FISCAL NOTE PRINTED
1/20	HEARING
1/23	TABLED IN COMMITTEE
2/23	MISSED TRANSMITTAL DEADLINE
	DIED IN COMMITTEE

HB 188 INTRODUCED BY WISEMAN, ET AL.

REQUIRE PUBLIC HEARING BEFORE LOCAL OPTION TAX ON LIGHT VEHICLES MAY BE CHANGED

BY REQUEST OF THE JUDICIAL UNIFICATION AND FINANCE COMMISSION

1/13	INTRODUCED		
1/13	FIRST READING		
1/13	REFERRED TO TAXATION		
1/14	FISCAL NOTE REQUESTED		
1/19	FISCAL NOTE RECEIVED		
1/19	FISCAL NOTE PRINTED		
1/20	HEARING		
2/10	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/11	2ND READING PASSED	84	16
2/13	3RD READING PASSED	84	14
	TRANSMITTED TO SENATE		
2/20	FIRST READING		
2/20	REFERRED TO TAXATION		
3/06	HEARING		
3/09	COMMITTEE REPORT—BILL CONCURRED		
3/11	2ND READING CONCURRED	27	7
3/13	3RD READING CONCURRED	39	10
	RETURNED TO HOUSE		
3/15	SIGNED BY SPEAKER		
3/18	SIGNED BY PRESIDENT		
3/20	TRANSMITTED TO GOVERNOR		
3/24	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 217		
	EFFECTIVE DATE: 03/24/95		

HOUSE BILL NO. 188

INTRODUCED BY Wiseman, Dwyer, Gilbert, Forbes, McLean, Hibbard

BY REQUEST OF THE JUDICIAL UNIFICATION AND FINANCE COMMISSION

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING STATE AND COUNTY RESPONSIBILITIES FOR DISTRICT COURT FUNDING; ESTABLISHING A PROGRAM UNDER WHICH THE STATE WILL PAY A PERCENTAGE OF CERTAIN COURT COSTS; ESTABLISHING A STATE SPECIAL REVENUE ACCOUNT FOR STATE FUNDING OF CERTAIN COURT COSTS AND PROVIDING A STATUTORY APPROPRIATION OF MONEY IN THE ACCOUNT; IMPOSING A LIGHT VEHICLE TAX FOR STATE FUNDING OF CERTAIN COURT EXPENSES; PROVIDING THAT CASE FILINGS USED TO DETERMINE STATE PAYMENT OF COURT REPORTER SALARIES BE DETERMINED BY FISCAL YEAR; REDUCING THE LOCAL OPTION TAX ON LIGHT VEHICLES; REQUIRING A PUBLIC HEARING BEFORE THE LOCAL OPTION TAX ON LIGHT VEHICLES MAY BE CHANGED; MAKING PERMANENT THE CURRENT DISPOSITION OF THE LOCAL OPTION TAX REVENUE BETWEEN THE COUNTY AND CITIES WITHIN THE COUNTY; RAISING THE DISTRICT COURT FEE FOR COURT REPORTERS AND REQUIRING THAT A PORTION OF THE FEE BE USED FOR STATE FUNDING OF CERTAIN COURT COSTS; AMENDING SECTIONS 3-5-602, 3-5-901, 7-6-2352, 17-7-502, 25-1-202, 61-3-509, AND 61-3-537, MCA; REPEALING SECTION 4, CHAPTER 749, LAWS OF 1991, AND SECTION 1, CHAPTER 217, LAWS OF 1993; AND PROVIDING EFFECTIVE DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. State cost-sharing program for certain court expenses -- procedures.** (1) Revenue that is statutorily appropriated to the supreme court under [section 2] must be used first to fund the costs of administering this section and then to provide state funding of up to 50% of a county's costs for the following court expenses:

(a) representation of an indigent person:

(i) who is charged with a misdemeanor in a justice's court;

(ii) during commitment proceedings pursuant to Title 53, chapter 21, part 1;

(iii) in a case involving a youth detained or charged under the Montana Youth Court Act, Title 41, chapter 5; or

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INTRODUCED BILL

(iv) in a child abuse, neglect, and dependency proceeding under Title 41, chapter 3, when representation is required by law;

(b) juvenile probation; and

(c) court reporter salaries in civil cases as provided in 3-5-602.

(2) If money appropriated for the expenses listed in subsection (1):

(a) exceeds the amount necessary to fund 50% of each of the expenses, the excess must be used for district court grants as provided in 7-6-2352; or

(b) is insufficient to fund 50% of each of the expenses, the supreme court administrator shall prorate the funds to pay the percentage that can be paid for each expense.

(3) The supreme court administrator may establish procedures necessary to administer this section.

NEW SECTION. **Section 2. Court cost-sharing account established -- statutory appropriation.** (1) There is an account in the state special revenue fund to provide state funding for a percentage of certain court expenses.

(2) Money remitted to the state treasurer as a court fee under 61-3-509(4)(b) must be deposited in this account.

(3) Money in this account is statutorily appropriated, as provided in 17-7-502, to the supreme court for payment of the state's share of court expenses as provided in [section 1].

NEW SECTION. **Section 3. Mandatory vehicle tax.** (1) In addition to the tax imposed under 61-3-504(2), a vehicle tax of 0.1% of the value determined under 61-3-503 must be imposed on vehicles subject to a property tax under 61-3-504(2).

(2) The county treasurer shall forward revenue collected under this section to the state treasurer at the time and in the manner provided for in 61-3-509.

(3) The state treasurer shall credit amounts received under this section in the manner provided for in 61-3-509(4).

Section 4. Section 61-3-509, MCA, is amended to read:

"**61-3-509. Disposition of taxes.** (1) ~~Except as provided in subsection (2), the~~ The county treasurer shall, after deducting the ~~district court fee~~ amounts provided for in subsection (2), credit all

remaining taxes on motor vehicles and fees in lieu of tax on motor homes, travel trailers, and campers collected under 61-3-504, 61-3-521, and 61-3-537 to a motor vehicle suspense fund~~, and at~~. At some time between March 1 and March 10 of each year and every 60 days thereafter, the county treasurer shall distribute the money in the motor vehicle suspense fund in the relative proportions required by the levies for state, county, school district, and municipal purposes in the same manner as personal property taxes are distributed.

(2) (a) The county treasurer shall deduct as a district court fee 7% of the amount of the 2% tax collected under 61-3-504 on an automobile or truck having a rated capacity of 1 ton or less.

(b) The county treasurer shall also deduct as a court fee the entire amount collected under [section 3].

(3) The county treasurer shall credit the ~~fee for district courts~~ amounts deducted under subsection (2) to a separate suspense account and shall forward the amount in the account to the state treasurer at the time the county treasurer distributes the money in the motor vehicle suspense fund.

(4) (a) The state treasurer shall credit amounts received under ~~this~~ subsection (2)(a) to the general fund to be used for purposes of state funding of the district court expenses as provided in 3-5-901.

(b) The state treasurer shall credit amounts received under subsection (2)(b) to the account established in [section 2] for state funding of a percentage of certain court expenses as provided in [section 1]."

Section 5. Section 61-3-537, MCA, is amended to read:

"**61-3-537. ~~(Temporary)~~ Local option vehicle tax.** (1) A county may impose a local vehicle tax on vehicles subject to a property tax under 61-3-504(2) at a rate of up to ~~0.5%~~ 0.4% of the value determined under 61-3-503, in addition to the tax imposed under 61-3-504(2).

(2) A local vehicle tax is payable at the same time and in the same manner as the tax imposed under 61-3-504(2). The local vehicle tax is distributed as follows:

(a) 50% to the county; and

(b) the remaining 50% to the county and the incorporated cities and towns within the county, apportioned on the basis of population. The distribution to a city or town is determined by multiplying the amount of money available by the ratio of the population of the city or town to the total county population. The distribution to the county is determined by multiplying the amount of money available by the ratio of

the population of unincorporated areas within the county to the total county population.

(3) The governing body of a county may impose, revise, or revoke a local vehicle tax ~~for a fiscal year~~ by adopting a resolution before July 1 ~~of the fiscal year~~, after conducting a public hearing on the proposed resolution. The resolution may provide for the distribution of the local vehicle tax. ~~(Terminates June 30, 1995--sec. 1, Ch. 217, L. 1993.)~~

~~**61-3-537. (Effective July 1, 1995) Local option vehicle tax.** (1) A county may impose a local vehicle tax on vehicles subject to a property tax under 61-3-504(2) at a rate of up to 0.5% of the value determined under 61-3-503, in addition to the tax imposed under 61-3-504(2).~~

~~(2) A local vehicle tax is payable at the same time and in the same manner as the tax imposed under 61-3-504(2) and is distributed in the same manner, based on the registration address of the owner of the motor vehicle.~~

~~(3) The governing body of a county may impose a local vehicle tax for a fiscal year by adopting a resolution before July 1 of the fiscal year, after conducting a public hearing on the proposed resolution.~~"

Section 6. Section 3-5-602, MCA, is amended to read:

"**3-5-602. Salary and expenses -- apportionment.** (1) Each reporter is entitled to receive a base annual salary of not less than $23,000 or more than $30,000 and no other compensation except as provided in 3-5-604. The salary must be set by the judge for whom the reporter works. The salary is payable in monthly installments out of the general funds of the counties comprising the district for which the reporter is appointed and out of ~~an appropriation~~ appropriations made to the supreme court ~~administrator~~ pursuant to 3-5-901 and [section 1] and as provided in subsection (2) of this section.

(2) (a) The supreme court administrator shall determine the total number of civil and criminal actions commenced in the preceding fiscal year in the district court or courts in the judicial district for which a reporter is appointed. ~~The~~ Pursuant to 3-5-901, the state shall pay ~~its~~ a portion of the reporter's salary based on the proportion of the total number of criminal actions commenced in the district court or courts in the district and the amount appropriated for that purpose. Pursuant to [section 1], the state shall also pay a portion of the reporter's salary based on the proportion of the total number of civil actions commenced in the district court or courts in the district and the amount appropriated for that purpose.

(b) Each county shall pay its portion of the remainder of the salary based on its proportion of the total number of civil and criminal actions commenced in the district court or courts in the district. The

judge or judges of the district shall, on ~~January~~ July 1 of each year or as soon thereafter as possible, apportion the amount of the salary to be paid by each county in the district on the basis prescribed in this subsection (2). The portion of the salary payable by a county is a district court expense within the meaning of 7-6-2351, 7-6-2352, and 7-6-2511.

(3) In judicial districts comprising more than one county, the reporter is allowed, in addition to the salary and fees provided for in subsection (1), actual and necessary travel expenses, as defined and provided in 2-18-501 through 2-18-503, when on official business to a county of the reporter's judicial district other than the county in which the reporter resides. The expenses must be apportioned and are payable in the same way as the salary."

Section 7. Section 3-5-901, MCA, is amended to read:

"**3-5-901. State assumption of certain district court expenses.** (1) The state shall, to the extent that revenue is available under 61-3-509(4)(a), fund the following district court expenses in criminal cases only:

(a) salaries of court reporters as provided in 3-5-602;

(b) fees for transcripts of proceedings;

(c) witness fees and necessary expenses;

(d) juror fees;

(e) expenses for indigent defense;

(f) expenses of the appellate defender commission and the office of appellate defender; and

(g) expenses for psychiatric examinations.

(2) The revenue received under 61-3-509(4)(a) is statutorily appropriated, as provided in 17-7-502, to the supreme court for funding the expenses listed in subsection (1) and the costs of administering this section.

(3) If money appropriated for the expenses listed in subsection (1):

(a) exceeds the amount necessary to fully fund those expenses, the excess amount must be used for district court grants as provided in 7-6-2352; or

(b) is insufficient to fully fund those expenses, the appellate defender commission and the office of appellate defender must be funded first and the county is responsible for payment of the balance.

(4) Money deposited in the state general fund in fiscal year 1992, as provided in 61-3-509(4)(a),

that is in excess of the legislative appropriation is statutorily appropriated, as provided in 17-7-502, to the supreme court for district court and courts of limited jurisdiction automation purposes during the 1995 biennium. (Subsection (4) terminates July 1, 1995--sec. 7, Ch. 330, L. 1993.)"

Section 8. Section 25-1-202, MCA, is amended to read:

"**25-1-202. Fee for court reporter.** (1) In addition to other filing fees, a fee of ~~$10~~ $20 must be paid to the clerk of the district court at the time of filing a civil action in the district court.

(2) ~~The~~ Fifty percent of the fee must be paid by the clerk into the treasury of the county where the action is filed, to be applied to the payment of the salary of the reporter. The balance of the fee must be remitted to the state treasurer to be deposited in the account established in [section 2].

(3) The prevailing party may ~~have~~ include the amount paid ~~by him taxed~~ under this section in ~~his~~ the bill of costs as a proper ~~disbursements~~ disbursement."

Section 9. Section 7-6-2352, MCA, is amended to read:

"**7-6-2352. State grants to district courts -- rules.** (1) ~~The state shall make grants, to~~ To the extent funds are available after expenses provided for in 3-5-901 and [section 1] are ~~funded~~ paid, the state shall make grants to the governing body of a county ~~for~~ to assist the district courts ~~for assistance,~~ as provided in this section.

(2) ~~The governing body of a county~~ A county's governing body may apply ~~to the supreme court administrator~~ for a grant by filing a written request with the supreme court administrator on forms provided by the administrator. The request must be submitted by August 20 for the previous fiscal year unless the administrator grants a time extension ~~upon~~ at the county's request ~~of the county~~. In its request for a grant, a county ~~must~~ shall certify that:

(a) all expenditures from the county district court fund have been lawfully made;

(b) no transfers from the county district court fund have been or will be made to any other fund; and

(c) no expenditures have been made from the county district court fund that are not specifically authorized by 7-6-2511 and 7-6-2351.

(3) To the extent funds are available, the state shall award a grant if the county's district court expenditures for the previous fiscal year exceeded the sum of:

(a) the product of the maximum mill levy authorized by law for district court purposes, whether or not assessed, multiplied by the previous year's taxable valuation of the county; and

(b) all ~~revenues~~ revenue, except district court grants, required by law to be deposited in the county district court fund for the previous fiscal year.

(4) Eligible court expenditures for grant purposes include all costs of the county associated with the operation and maintenance of the district court, from whatever fund paid, except costs for building and capital items and library maintenance, replacement, and acquisition.

(5) The supreme court administrator shall notify each eligible county as soon as possible of the state's intention to award a grant to that county and the amount of the award.

(6) The grant received by the county must be placed in the county's district court fund.

(7) If an audit conducted pursuant to 2-7-503 discloses that the recipient received a grant in excess of the amount for which it was eligible, the recipient shall repay the excess to the state. The supreme court administrator shall redistribute any repaid excess amounts to the other counties that received grants from the appropriation from which the overpayment was made, on the same basis as the original awards. A county is not eligible for a district court grant if it owes the state a refund of a prior year's overpayment.

(8) The supreme court administrator, in consultation with the supreme court, shall prescribe rules and forms necessary to effectively administer this section. The administrator may require a county to provide any information considered necessary for the administration of the program."

Section 10. Section 17-7-502, MCA, is amended to read:

"**17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 3-5-901; [section 2]; 5-13-403; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 15-1-111;

15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-101; 17-6-201; 17-6-409; 17-7-304; 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-15-101; 19-17-301; 19-18-512; 19-18-513; 19-18-606; 19-19-205; 19-19-305; 19-19-506; 20-4-109; 20-8-111; 20-9-361; 20-26-1403; 20-26-1503; 23-2-823; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 27-12-206; 32-1-537; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321; 39-71-2504; 44-12-206; 44-13-102; 50-5-232; 50-40-206; 53-6-150; 53-24-206; 60-2-220; 61-2-107; 67-3-205; 75-1-1101; 75-5-507; 75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-2-222; 80-4-416; 80-11-310; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 90-3-301; 90-4-215; 90-6-331; 90-7-220; 90-9-306; and 90-14-107.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; and pursuant to sec. 15, Ch. 534, L. 1993, the inclusion of 90-14-107 terminates July 1, 1995.)"

NEW SECTION. **Section 11. Repealer.** Section 4, Chapter 749, Laws of 1991, and section 1, Chapter 217, Laws of 1993, are repealed.

NEW SECTION. **Section 12. Codification instruction.** (1) [Sections 1 and 2] are intended to be codified as an integral part of Title 3, chapter 5, part 9, and the provisions of Title 3, chapter 5, part 9, apply to [sections 1 and 2].

(2) [Section 3] is intended to be codified as an integral part of Title 61, chapter 3, part 5, and the provisions of Title 61, chapter 3, part 5, apply to [section 3].

NEW SECTION. **Section 13. Effective dates.** (1) [Sections 5, 11, and 12 and this section] are

effective on passage and approval.

(2) [Sections 1 through 4 and 6 through 10] are effective July 1, 1995.

-END-

HOUSE TAXATION

BILL NO	REFERRED	HEARING	OTHER CONSIDERATION DATES	EXECUTIVE ACTION/DATE/VOTE	REREFERRED	DATE READ
HB0149	MERCER, JOHN		PROVIDE VIDEO GAMING TAX REVENUE & CREDITS IN AREAS WHERE NEGOTIATIONS FAIL	TABLED ON 00/21 VOTE:		
HB0149	MERCER, JOHN 1/12	2/07	PROVIDE VIDEO GAMING TAX REVENUE & CREDITS IN AREAS WHERE NEGOTIATIONS FAIL	TABLED ON 02/10 VOTE:		
HB0156	COBB, JOHN 1/12	1/27	CLASS EIGHT PROPERTY -- PROPERTY WITH LOW SALVAGE VALUE HAS NO TAX VALUE	VOTE:		
HB0164	HARPER, HAL 1/12	1/20	TAX ON COMPRESSED NATURAL GAS; LICENSING; RECORDS; ADMINISTRATION; ENFORCE	DO PASS VOTE:		1/25
HB0171	MERCER, JOHN 1/12	1/17	THE EXCESS TAX REFUND AGREEMENT (EXTRA); 1995 REFUND OF EXCESS FUND BALANCES	PASS AS AMENDED VOTE:		1/19
HB0176	HAGENER, TONI 2/06	2/15	IMPOSE $5 SURCHARGE ON USERS IN ALL CRIMINAL, CIVIL, AND PROBATE COURT CASES	PASS AS AMENDED VOTE:		2/15
HB0181	COBB, JOHN 1/13	2/15	REVISE PROPERTY TAX RELIEF FOR LOW - TO - MODERATE INCOME HOUSEHOLDS	VOTE:		
HB0182	COBB, JOHN 1/13	1/19	INCREASE NURSING FACILITY UTILIZATION FEE -- APPROPRIATION	TABLED ON 01/20 VOTE:		
HB0183	COBB, JOHN 1/13	1/19	INDEX CLASS 4 PROPERTY TAX RATE TO PERIODIC REVALUATION CHANGES	TABLED ON 02/01 VOTE:		
HB0188	WISEMAN, WILLIAM 1/13	1/20	REQUIRE PUBLIC HEARING BEFORE LOCAL OPTION TAX ON LIGHT VEHICLES IS CHANGED	PASS AS AMENDED VOTE:		2/10
HB0199	ELLIOTT, JIM 1/14	1/24	MAKE PERMANENT TAX CREDIT FOR CONTRIBUTIONS TO U-SYSTEM AND PRIVATE COLLEGES	DO PASS VOTE:		1/27
HB0202	NELSON, THOMAS 1/17	1/25	ALLOW INDIVIDUAL INCOME TAX DEDUCTION FOR 1/2 MEDICAL INSURANCE PREMIUMS	VOTE:		

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN CHASE HIBBARD**, on January 20, 1995, at 8:00 a.m.

ROLL CALL

Members Present:

Rep. Chase Hibbard, Chairman (R)
Rep. Marian W. Hanson, Vice Chairman (Majority) (R)
Rep. Robert R. "Bob" Ream, Vice Chairman (Minority) (D)
Rep. Peggy Arnott (R)
Rep. John C. Bohlinger (R)
Rep. Jim Elliott (D)
Rep. Daniel C. Fuchs (R)
Rep. Hal Harper (D)
Rep. Rick Jore (R)
Rep. Judy Murdock (R)
Rep. Thomas E. Nelson (R)
Rep. Scott J. Orr (R)
Rep. Bob Raney (D)
Rep. John "Sam" Rose (R)
Rep. William M. "Bill" Ryan (D)
Rep. Roger Somerville (R)
Rep. Robert R. Story, Jr. (R)
Rep. Emily Swanson (D)
Rep. Jack Wells (R)
Rep. Kenneth Wennemar (D)

Members Excused: None.

Members Absent: None.

Staff Present: Lee Heiman, Legislative Council
Donna Grace, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing:	HB 188
	HB 164
	SB 45
	SB 54
Executive Action:	SB 54 - Concurred In
	HB 182 - Tabled

{Tape: 1; Side: A .}

HEARING ON HB 188

Opening Statement by Sponsor:

REP. BILL WISEMAN, House District 41, Great Falls, explained that HB 188 would provide for funding District Court costs. In a brief review of court funding, he said that the legislature passed a temporary .5% optional tax on light vehicles that counties could use to fund District Courts. In 1991 the legislature made the tax permanent, but they placed a June 30, 1993 sunset on the temporary tax. In 1993 the sunset was extended to June 30, 1995. Additionally, in 1993 the Legislature established an interim committee on judicial unification and finance which published a report in November 1994. HB 188 is the result of one of the recommendations of that committee. It establishes a state cost-sharing program for District Court civil expenses, court reporters, juvenile probation and indigent defense similar to the criminal reimbursement program except the state would pay only 50% of the cost. **REP. WISEMAN** said that in 1985 the legislature passed a 2% tax on light vehicles to fund criminal court costs because large cases were arising in small, sparsely populated counties where there was no tax base to finance a huge criminal trial. The state now reimburses counties for the criminal cases. HB 188 would do the same thing for civil cases. To pay for the civil reimbursement program, a mandatory, state-wide vehicle tax of .1% tax would be imposed in addition to the 2% already in place. For counties that already have authority for the local option vehicle tax, the tax would be reduced from .5% to .4%. The bill requires that a public hearing be held annually for the imposition of the tax in counties that elect to adopt the optional tax. The bill makes permanent the present authority for the utilization of the .4%, removing the previous sunset clause. The bill also allows salaries for court reporters and the number of court filings to be determined on a fiscal year basis rather than on a calendar year basis.

Proponents' Testimony:

John Stephenson, member of the Judicial Unification and Finance Commission, said the bill is one result of the Commission's deliberations. EXHIBIT 1. He reported that court funding became acute in Cascade County when the civil courts were shut down because of lack of funding. The 37 Montana District Courts cannot pay their costs out of designated court revenues and have to dip into other county funds. In 1992 over $2 million in optional light vehicle license taxes was spent on the District Courts. If the sunset provision is not removed, District Court funding will again be critical. The tax would raise in excess of $2.6 million and the counties could apply for reimbursement of half of the court's expenses for civil cases.

John W. Larson, District Court Judge, Missoula, and a member of the Judicial Unification and Finance Commission, rose in support of the bill. The juvenile justice system is one of the biggest growing problems in Montana. There has been a dramatic increase in very serious felonies coming into juvenile court and there are few programs available to address juvenile issues. HB 188 would provide a state-wide pool of funding to help on juvenile probation issues. He urged the Committee's favorable action on HB 188.

Janet Kelly, County Commissioner, Custer County, and member of the Judicial Unification and Finance Commission, supported HB 188. The text of her testimony is included in EXHIBIT 2.

Nancy Sweeney, Clerk of the District Court, Lewis and Clark County, spoke in favor of the bill. Her testimony is attached as EXHIBIT 3.

Gordon Morris, Montana Association of Counties, provided information relative to the local option vehicle fee, FY 95. EXHIBIT 4. He noted that 37 counties use some or all of the .5% tax option available to them. He commented that more study had gone into this bill than probably any bill to come before the legislature in this session. The Montana Association of Counties, following many months of intensive review and conversations with county officials throughout the state, stands strongly in support of HB 188. This bill is a major priority for counties in this legislative session.

Alec Hansen, Montana League of Cities and Towns, testified in support of HB 188. He said it was a difficult decision because the cities and towns in the 37 counties imposing this local option tax would lose revenue. However, this is a reasonable solution to the perplexing problems of funding the District Courts and he asked for the Committee's favorable support.

Vicki Hyatt, Stillwater County Commissioner, said that Stillwater County does not impose the local option tax and does not have a District Court funding crises. The Commissioners do, however, realize that they are only one case away from a funding crises and they would consider this bill an "insurance policy" for the future; therefore, they support the bill.

Kathleen Breuer, Clerk of District Court, Missoula County, and President of the Montana Association of Clerks of District Courts, said she could not add to the previous testimony, but urged passage of the bill.

Opponents' Testimony:

Steve Turkiewicz, Executive Vice President, Montana Auto Dealers Association, said it was interesting to note that the bill provides cost sharing for state and local government but he noted that it is the vehicle owner who is paying the tax. According to

the fiscal note, this amounts to over a million dollars per year. Montana's car owners are already paying a fare share of the tax structure. Since 1987, the amount of money derived by Montana's counties from automobiles has gone from $34.5 million to $44 million because of the 2% tax. He said he was sympathetic to the problems of the District Courts but he did not think it was fair to characterize this as a state and local cost sharing program when it is focusing on one particular taxpayer to pay the mandatory .1%. The Montana Auto Dealers Association opposes this legislation.

Dennis Burr, Montana Taxpayers Association, asked the committee to consider whether the .1% tax which is actually a 5% increase in the tax is significant. This is one of the few bills that will be taking a local government tax and making it a state tax. To put the tax into perspective, the 2½% tax on motor vehicles comes out to be about 278 mills which is lower than the average mill levy in Montana but he asked the Committee to keep in mind that motor vehicles are the only item of personal property owned by individuals in Montana subject to a property tax. **Mr. Burr** then called attention to the fiscal note which discusses dedication of revenue, when it is appropriate to earmark revenue, and the relation this would have to legislation being introduced relative to de-earmarking funds. He noted that to be earmarked, a program or activity must provide a direct benefit to those who pay the dedicated tax and is commiserate with the cost of the program. This tax does not meet the criteria. In conclusion, he stated that this tax will not do much to solve the problem with the District Courts and the obvious solution would be for the state to fund its courts.

Bob Bachini, former Legislator from Hill County, now living in Helena, testified that during his six terms in the Legislature, he had opposed this legislation every time it arose. The state had a flat tax on vehicles and people were happy with that; however, the legislature went back to the tax system. **Mr. Bachini** said he opposed this bill because the Legislature was "sold a bill of goods" when the bill was introduced to fund the courts because one county that was a big supporter of the legislation had court costs they couldn't cover. When the tax was imposed the intent was to help the courts, but, because that wasn't specified in the bill, the counties are spending it on all kinds of other things. He commented that the bill requires a public hearing but, if this were changed to a public vote, the people would turn it down.

{Tape: 1; Side: B.}

Questions From Committee Members and Responses:

REP. BOHLINGER said he liked the statement made by Ms. Kelly that "justice is everybody's business" but, as he understood it, he would also apply some thoughts introduced by Dennis Burr in his testimony that if justice is everybody's business, why aren't the

courts funded by the State of Montana which represents the entire population as opposed to just one segment of the population.

Ms. Kelly said she sat on a State Bar Association Committee which is working toward that goal. At the present time it is difficult for the state to provide the services with the money that is available. She said that the Judicial Unification and Finance Commission had considered this but had come to the conclusion that if this was the recommendation of the Commission, it probably wouldn't be accomplished because there is not enough money to do it. It was more practical to deal with the realities and try to resolve the problems faced right now and continue to work on the issue.

REP. BOHLINGER commented that if the Legislature rejects HB 188 and the funding mechanism is no longer available, the court system would not collapse because the state recognizes the need. He asked if it was likely that the state would do what they should have done some time ago to provide funding.

Ms. Kelly said she could not speak for the state and had no idea what they would do.

REP. BOHLINGER apologized for the unfair question. He then referred to a document showing how local option taxes are being spent and it was obvious to him that it is not being used specifically for the courts. He noted that the funds are being used in various counties for road department equipment, general fund, hospital building funds, poor funds and various other uses. He asked why, if the intent is to fund the court system, the revenue is being used for other purposes. **Mr. Morris** said that in the 1991 session when HB 312 was adopted following much consideration, the legislative intent was that the first issue to be addressed by counties was District Court funding but the bill did not specify that. Every county commissioner across the state of Montana is aware of that and that intent must be fulfilled. When funds are used otherwise, it reflects the fact that the Legislature gave the discretion to the counties.

REP. MURDOCK said there are a number of counties that do not levy the optional tax who obviously have court costs. She asked where they received their funding. **Mr. Morris** said there are 19 counties that do not levy any portion of the local option tax, yet all 56 counties benefit from the criminal reimbursement program because it is an insurance program against the unexpected, astronomical court case that could arise in any county at any time. That is what the criminal reimbursement program is for and even the counties who do not apply the tax currently realize that this would provide a pool for them in the case of the unanticipated case. On behalf of the 19 counties not utilizing the money, they also stand before the Committee supporting this legislation. **Mr. Morris** indicated that this is a very complicated matter and only a few people understand what has happened since 1985 and what the intent of the bill actually was.

He said that MACO had gone before the Commission and urged them to come up with an alternative but they were just as frustrated in light of the fact that there was no opportunity for an alternative to this.

REP. SWANSON asked if this would mean that because she lives in Gallatin County, she would receive an increase when licensing her vehicle. **Mr. Morris** said that was correct but assumed that Gallatin County would be receiving more back then it would be sending in. **REP. SWANSON** then asked if she lived in Blaine County, which does not levy the optional tax, she would have a mandatory increase of .1% and the commissioners would have the option of levying an additional .4%. **Mr. Morris** said that was correct. **REP. SWANSON'S** final question was if the legislation did not pass, would the counties continue to have the option of levying the .5% tax. **Mr. Morris** replied that the sunset in the bill does not apply in reference to the option itself and if it is allowed to toll in 1995 as scheduled, the option would not go away -- what does go away is the 50/50 allocation set forth in the bill. Fifty percent of the 2% goes to the district courts and the other 50% is split between the counties, cities and towns. The typical allocation would be 25% to the state by virtue of the levies for schools and universities, schools get about 60% and the rest goes to the counties, cities and towns. What would happen if the sunset is taken off is that the allocation would parallel what is outlined on page 3, lines 1-6 and, from a county perspective, they are now getting 75% of the revenue, sharing it with cities and towns. Under the allocation that would go into effect if the sunset is allowed, the counties would get 17% and, on behalf of the county commissioners, the 17% would not be worth it to many of them from the standpoint of the fact that they are the ones that have to stand in front of the voters on an annual basis and ask to impose the local option tax. There is no advantage to them to take the heat when the tax is primarily going to schools.

REP. NELSON asked what the situation would be in Yellowstone County. **Mr. Morris** replied that instead of paying .1%, they would pay .2% because the .1% would become mandatory and Yellowstone County is currently levying .1%.

REP. ORR asked if there had been discussions in the Commission to look at the things the state requires the District Courts to do and if there had been any discussions on bringing bills before the Legislature to reduce the burden on the courts. **Mr. Stephens** indicated that they had looked at a large range of problems and some of the bills coming before the Legislature are not funding bills. He said they had looked at the judiciary system and the services provided by the courts and talked about a unified court system. The legal changes involved would be so sweeping, it would not be realistic to try to propose them and some would require constitutional changes. One of the realities about the court system is that they are a necessary service of government, mandated in the constitution. What is happening in the court

system is that it is being burdened with more demands, not because the judges or clerks of court want to increase the number of cases, but because they have no control over the number of cases being imposed upon them.

REP. HARPER said he agreed with Mr. Burr that the state should support its courts. He asked how he could justify the Montana Taxpayers Association support of this concept when it had also supported the return of the $21 million surplus. **REP. HARPER** said it would only take $6 million to fund this program at the state level. He asked if Mr. Burr had any suggestions for cutting other programs to fund this one, places where taxes could be raised, or perhaps the rebate should be reconsidered. **Mr. Burr** said that if a parallel was going to be drawn between every spending need and the rebate program, it would be necessary to draw the same parallels between this spending program and every other spending program. The Legislature can do more than one thing during this session. It may be necessary to make cuts to free up revenue to do things but he wouldn't recommend that the first dollar saved should go to this program. Every time there is a need for a program, it is unnecessarily proper to "beat on the rebate" as the only thing the Legislature is facing that is going to cause a program to go unfunded.

REP. HARPER said he understood that but regardless of how it is termed, $25 million is being spent on the rebate, and that could mean that programs like this are not funded and he thought the parallels were proper. **Mr. Burr** said that he had a different way of looking at it and he felt the worst thing that could be done would be to build it into the budget in a way that would increase expenditures over expected state revenue for the next biennium. This would, once again, create a structural imbalance that has been so difficult to deal with during the last seven or eight years. There are probably many uses for one-time money, but in this case, we are talking about an on-going program and it wouldn't be a proper use of that particular amount of money.

REP. RANEY said there wasn't any move to raise taxes in this session so it will be necessary to prioritize spending. Therefore, if this is a priority, he suggested that rather than 2% and add .01%, that the 2% be reduced to 1.9% which means that the 2% fee will have to be distributed differently. He asked if this would be feasible -- local governments wouldn't take a hit and state government gets the responsibility for this .1%, without raising taxes. **Mr. Morris** said this was a good question, and remarked that he wasn't sure of the numbers but if 2% was reduced to 1.9%, the distributions to state equalization aid of 55 mills could be eliminated and the remaining money could be distributed among the remaining levies, that would make it up. If it didn't, the same thing could be done by eliminating the 40 mill school foundation levy and redistribute the money back across the remaining levies and it would then be basically revenue neutral from the standpoint of the counties. It would not be revenue neutral from the standpoint of the state and there

would then have to be more money coming from state income tax into these accounts. It could be done by striking out "the state" on line 5, page 3. **REP. RANEY** said he would ask Mr. Heiman to draft amendments and asked Mr. Morris to work with him to ensure that local governments would not lose any revenue. **Mr. Morris** replied that, as a representative the Montana Association of Counties, he could work with Mr. Heiman to draft such an amendment providing there would be no adverse effect on counties by doing so.

REP. WELLS referred to a handout presented by **Janet Kelly** which indicated that the county commissioners don't have control over the District Court funds and he asked if she had any suggestions for controlling costs. **Ms. Kelly** responded that if the law were changed so the commissioners were able to set rates for probation officers or court reporters, that would be a step in the right direction. As pointed out, the commissioners don't have control of the budget. Because of the unpredictability and the purpose of the district court system, it's impossible to know what sort of case load will come through the system. **REP. WELLS** then asked if these people were being paid by case or whether they were salaried. **Ms. Kelly** said that there are witness fees and other costs associated with trials. The wages are fixed and some costs are reimbursed through the criminal reimbursement program. The case load definitely impacts the overall budget.

REP. HANSON asked the sponsor if he had any statistics on what percentage of the population actually own vehicles and how many might use urban transportation. **REP. WISEMAN** responded that the people who will pay this tax are the people who own vehicles and the more expensive vehicle owned, the more expensive the tax will be. For those who ride the bus system or walk to work, there will be no tax increase. For those who have minimal transportation, it will be a minimal tax. He indicated that he did not have the statistics, however.

REP. BOHLINGER stated that he prescribed to the principle that the people who pay the tax should in some way benefit from the tax and, since he had never come before the court, he felt this could be considered an unfair tax. He asked for comments on how ethical it is to extract a tax from people that have not benefited from the tax. **District Judge John Larson** commented that the Montana Constitution requires that the courts handle cases within a limited span of time, they cannot limit the number of jurors and cases may last for many weeks. Abuse and neglect cases, juvenile cases, all must be handled expediently. In Missoula, cases have been shifted between courts in an effort to provide more space for probation officers, but they are at a point where they will have to hire more and try some different ideas in juvenile justice cases. The caseload does affect cost and they do try to work with the county commissioners on budgets because they feel it is a cooperative process. **Judge Larson** said that from an ethical standpoint, everyone benefits from the court system. If this bill is not passed, the tax will not go away,

District Court funding will be reduced and the courts will not be able to function and everyone will be dissatisfied.

{Tape: 2; Side: A.}

REP. FUCHS said he had some experience with the judicial process and had been working on some judicial reform. He asked when the judges would begin to hold attorneys accountable for delays in cases which can cause a financial burden on the court system. **Judge Larson** said they are doing this in Missoula right now. They have mandatory mediation of all civil cases before a trial date is set and there are 70 attorneys in Missoula who have volunteered to serve as mediators. He said they are finding that approximately 60% of the cases are resolved before going to trial. They are using volunteers in abuse and neglect cases to provide followup. They are also getting into the computer age to try to speed things up.

At this point **CHAIRMAN HIBBARD** asked Committee Members to please make their questions brief.

REP. SOMERVILLE requested an explanation of how wages are set for court reporters and juvenile probation officers. **Judge Larson** said the ranges are set in the statutes and the judges, by order, set the salary for court reporters. The salaries of juvenile probation officers is a matter of the judges consulting with the county commissioners. The same is true for public defenders.

REP. ROSE asked if all the money assigned to the District Courts was used for that purpose or whether it was siphoned off for other county departments. **Ms. Breuer** said the funding coming to the District Court is used in the Court. **REP. ROSE** then asked who pays for a juvenile case that is referred to Family Services for review. **Ms. Hughes** replied that the court pays and it is not reimbursed.

REP. STORY asked if any attempt had been made to redistrict the courts because of population shifts. **Mr. Stephens** replied that judicial districts are set by law and it would be up to the Legislature to determine any changes in the boundaries of the districts. **REP. STORY** then asked if this could be an option to reduce the workload. **Mr. Stephens** said there are significant disparities in workload and some of the judges in areas with a light case load will take cases from other districts. There is no mechanism in the law at this time to deal with this.

Closing by Sponsor:

REP. WISEMAN said he would like to point out that this is a continuing problem and it is everyone's problem and something must be done. The sunset law will mature in five months and 37 of the 56 counties in the state are experiencing District Court funding shortfall. This bill would help alleviate the problem. This would not be a tax increase for those counties already

levying the full .5% and it would be an increase, depending on what county commissioners do in the counties that do not levy the full .5%. The people who will pay the tax are the people who own light vehicles in the State of Montana and there is a discrepancy between those who own expensive vehicles and those who have no automobile who will pay nothing or those who have very basic transportation and will pay a minimal amount. It is an insurance for those counties that currently do not levy the tax. He said everyone uses the court system every day. He emphasized that he uses it every day to keep people from assaulting him, stealing his vehicle or suing him in court. He said he had signed a pledge not to raise taxes but he could vote for this bill because in his county, they levy the full .5%. He suggested that Committee Members determine if their counties levy the tax and, if so, this would not be a tax increase for constituents.

HEARING ON 164

Opening Statement by Sponsor:

REP. HARPER, House District 52, Helena, explained that HB 164 would end a "free ride" some people are having on Montana's highways. Almost all the money for road maintenance and repairs comes from fuel taxes -- gas, diesel, or special fuels -- and no matter what fuel you use, you have to pay something for the use of the highways unless you have a car that runs on natural gas. That fuel is not currently taxed, partially because of an error made in the last session that eliminated the tax. This bill would reinstate the tax at the previous level.

Proponents' Testimony:

William Salisbury, Administrator, Administration Division, Montana Department of Transportation (DOT), appeared before the committee in support of the bill. His written testimony is attached as EXHIBIT 5.

Jim Paladichuk, Montana-Dakota Utilities, offered support for HB 164.

Con Malee, Montana Power Company, appeared before the Committee in support of HB 164 because the tax represents a fair and reasonable tax on the commodity. The use of compressed natural gas as a vehicle fuel is supported by the Energy Policy Act of 1992 which strives to reduce the dependence on non-domestically produced transportation fuels. The Clean Air Act of 1990, Executive Order 12759, signed by President Bush, and Executive Order 12844 signed by President Clinton attempt to reduce air pollutants, and the Environmental Quality Commission proposes an alternative fuels policy for development within the State of Montana. Montana Power Company currently operates 180 company vehicles and fuels approximately 24 private vehicles within their service territory with compressed natural gas. Montana Power

HOUSE OF REPRESENTATIVES

Taxation

ROLL CALL DATE 1/20/95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Chase Hibbard, Chairman	✓		
Rep. Marian Hanson, Vice Chairman, Majority	✓		
Rep. Bob Ream, Vice Chairman, Minority	✓		
Rep. Peggy Arnott	✓		
Rep. John Bohlinger	✓		
Rep. Jim Elliott	✓		
Rep. Daniel Fuchs	✓		
Rep. Hal Harper	✓		
Rep. Rick Jore	✓		
Rep. Judy Rice Murdock	✓		
Rep. Tom Nelson	✓		
Rep. Scott Orr	✓		
Rep. Bob Raney	✓		
Rep. Sam Rose	✓		
Rep. Bill Ryan	✓		
Rep. Roger Somerville	✓		
Rep. Robert Story	✓		
Rep. Emily Swanson	✓		
Rep. Jack Wells	✓		
Rep. Ken Wennemar	✓		

EXHIBIT 1
DATE 1/20
HB 188

JUDICIAL UNIFICATION AND FINANCE COMMISSION
SUMMARY OF PROPOSALS

The Judicial Unification and Finance Commission (JUFC), was created by the 1993 Legislature to study the potential unification and future financing of Montana's courts. The committee is proposing seven Legislative bills and a number of Recommendations.

JUFC LEGISLATIVE PROPOSALS

LC0067 District Court Funding -- Establishes a state cost-sharing program for certain district court expenses in civil proceedings similar to the criminal reimbursement program, except that the state would pay up to 50% of the costs. Eligible expenses under this program are:

(1) Representation of indigent persons who are (a) charged with a misdemeanor in justice court, (b) subject to civil commitment proceedings, (c) youths charged under the Montana Youth Court Act, (d) subject to child dependent and neglected proceedings;

(2) Juvenile probation; and

(3) Court reporters salaries in civil cases.

To pay for the civil reimbursement program the legislation imposes a mandatory 0.1% light vehicle tax. Funding for the 50/50 cost share would be statutorily appropriated for the above stated civil expenses. Counties will continue to have the option to levy a light vehicle tax up to 0.4% and the bill makes

permanent the present distribution of option tax monies (50% the county and 50% to the cities, towns, and outlying areas of the county on the basis of population) thereby removing the previous sunset provision which otherwise would become effective on July 1, 1995.

RATIONALE: The Legislature should act LC67 to provide state funding for up to 50% of each county's most volatile or uncontrollable court expenses in civil cases: indigent representation, juvenile probation and court reporters' salaries. More than half of Montana's counties are experiencing serious shortfalls in their district court budgets. District court expenses such as indigent defense and juvenile probation are volatile and unpredictable. Unexpectedly high expenses can seriously affect the stability of county budgets and fiscally hurt some counties more than others. Furthermore, county commissions have no authority to control some expenses that are dictated by statute such as salaries for court reporters and juvenile probation officers. The bill also eliminates the sunset provision in the existing 0.5% light vehicle option tax thereby guaranteeing counties a permanent source of revenue for district court and other needs as well as a permanent source of revenue for cities and towns.

LC0130 Civil Commitment Proceedings -- Provides that payment for civil psychiatric evaluation and treatment costs incurred in involuntary civil commitment proceedings will be assumed by the state, and will be paid from the state general fund.

RATIONALE: Seriously mentally ill persons, who were formerly cared for in state custodial institutions, are now the

responsibility of the counties of which they are "residents." (53-21-113 M.C.A.) During civil involuntary commitment proceedings, such persons must be hospitalized and a typical hospitalization is two to four weeks at an average cost of $1,200 per day. Seriously mentally ill persons from outlying counties tend to take up residence in counties which have mental treatment centers and thus the burden of these expenses tends to impact urban counties disproportionately. Such expenses are escalating, they are unpredictable, and they cannot be controlled at the local level. Such expenses exceeded $1.2 million during the 1993-1994 biennium. By shifting these expenses from the counties to the state general fund, the cost of caring for such patients would again be assumed by state and the counties would no longer be subject to uncontrollable expenses mandated by the state for which no funding mechanism is otherwise provided.

LC0066 Post Conviction Relief Expenses -- Provides that the district court criminal reimbursement program pay certain costs for post conviction relief hearings and habeas corpus proceedings and for certain expenses incurred by the state in federal habeas corpus cases challenging the validity of conviction or of a sentence.

RATIONALE: Current statutes (Title 46, Chapters 21, 22) provide that a person convicted and sentenced for a criminal offense may file a petition challenging the validity of the court's judgment. These post-conviction relief proceedings involve expenses for evidentiary hearing and court appointed counsel. The district court criminal reimbursement program funded under Section

3-5-901 M.C.A. does not reimburse counties for these expenses. Although exact data is not available it is estimated that the cost of these proceedings state wide is probably less than $20,000 per year and adding this category to the criminal reimbursement program will not require any additional funding sources.

LC0065 Court Automation -- Requires all courts of original jurisdiction to impose a $5.00 user surcharge (to be statutorily appropriated) in criminal, civil, and probate cases to be used for state funding of court information technology.

RATIONALE: In 1990, the Supreme Court ordered the Office of Court Administrator to provide automation for the 182 courts in Montana. Contemplated projects include computerized legal research, automation of district court records, state wide access to court records, automation of traffic citations and fine collections and others. Although some progress has been made there is no funding mechanism in place to continue. The $5.00 user surcharge would provide funding to allow the continued development of court automation.

LC0064 Court Record Retention -- Requires counties to establish a fund for district court records retention, preservation, and technology. Clarifies the disposition of district court fees and raises certain district court fees by $5.00 in most cases. Provides that the increase in fees be deposited in the county fund for district court records retention, preservation and technology.

RATIONALE: District courts must provide for the storage and preservation of district court records, some of which date back

to 1880. However, counties have no specific budgets for maintaining such records. The objective of LC64 is to provide the funds necessary for the clerks of district courts to effectively maintain, store, and preserve such records.

LC0063 Assignment of District Judges to Other Districts -- Provides that the Chief Justice, rather than the Governor, has the authority to temporarily assign a district judge to hold court in a district other than the judge's own district. Eliminates the requirement that such assignment is pursuant to a request by an interested person or by written order.

RATIONALE: Present §§ 3-5-111 and 3-5-112 M.C.A. provide that the Governor has the authority to assign a district judge to hold district court in another district if by reason of caseload or other circumstances the elected judge of the district is unable to do so. These statutes violate the constitutional separation of powers. Under the amended statutes, the Chief Justice will assume these functions and the requirement that an interested person must first request the reassignment is eliminated.

LC0062 Seven Member Supreme Court -- Makes permanent the provision setting the number of associate justices on the Montana Supreme Court at six.

RATIONALE: This provision would retain the present seven member court which otherwise will be reduced to a five member court pursuant to a sunset provision effective January 6, 1997. Since 1979, when the Legislature first authorized a seven member court, the number of Supreme Court cases has been increasing and between

1983 and 1993, the annual number of cases rose from 561 to 659. In fiscal year 1993, the Supreme Court issued 437 opinions, or about 62 opinions per justice. If the court were reduced to five members, the number of opinions per justice per year would increase to about 87, a 40% increase. Retention of a seven member court is essential to keep pace with the increasing work load.

ADDITIONAL RECOMMENDATIONS

The JUFC also made the following additional recommendations for which no legislation was proposed.

RECOMMENDATION NO. 2: Continue to explore long term solutions. The Legislature should continue to explore long term funding solutions that ensure the sufficient, stable and equitable funding of Montana's district courts, including the potential for total state assumption of district court funding. Furthermore, if the Montana Supreme Court establishes an advisory council (see Recommendation (No. 6) the advisory council should explore court funding needs and should advise the Supreme Court and the Legislature on ways to allocate resources in the most efficient and effective manner possible.

RECOMMENDATION NO. 5: Pursue grant funding. The judicial branch in each county and court individually should actively seek funds being made available to state courts through the federal crime control bill and other court grant programs.

RECOMMENDATION NO. 6: Judicial advisory council and regional conferences. The Montana Supreme Court should establish a judicial advisory council to conduct long range strategic planning for the judicial branch. Among the issues that the

advisory council should examine are total state funding, court unification options, judicial compensation (which remains among the lowest in the nation), and court reporter employment issues.

Membership on the advisory council should include one representative each appointed by:

(1) The Supreme Court, District Court judges, Magistrates Association, Clerks of District Courts, the Court Reporters Association, the State Bar of Montana, the Montana Association of Counties, the Montana League of Cities and Towns, the Sheriffs and Peace Officers Association, the Governor, the Senate and the House of Representatives.

In conjunction, the Supreme Court should provide for regional conferences to enhance communication between judicial officials and courts at all levels.

The JUFC endorses the efforts of the Montana Judges Association to address these issues within the judicial branch.

RECOMMENDATION NO. 11: Use available technology.

The Legislature, judiciary and local government should strongly support the use of available technology, especially the Montana Educational Telecommunications Network (METNET), to improve court operations. The METNET system, which provides a two way interactive, televideo capability, should be available to as many courts as possible so that initial hearings can be conducted without the cost and security risks of transporting a defendant from the jail or detention center to the court of jurisdiction.

RECOMMENDATION NO. 12: Modify the budgetary and revenue system (BARS).

The Department of Commerce and Office of Court Administrators should work together to modify the budgetary and accounting revenue systems (BARS) format to establish a more uniform system for counting reporting of court expenditures. Uniform and accurate reporting of expenditure data is essential to determining the fiscal status of Montana's court systems.

RECOMMENDATION NO. 13: Address juvenile justice issues.

The Legislature should thoroughly examine and expeditiously address problems with Montana's juvenile justice system, especially confidentiality, sentencing, and extended jurisdiction issues involving serious juvenile offenders.

EXHIBIT 2
DATE 1/20/95
HB 188

Testimony of Janet R. Kelly, Chair, Custer County Commission
before the House Taxation Committee
Friday, January 20, 1995

Chairman Hibbard, Members of the Committee, Ladies and Gentlemen:

Good morning. My name is Janet Kelly, a Commissioner from Custer County. I am here in support of HB 188. I represented the Montana Association of Counties on the Judicial Unification and Finance Commission that was established by the 53rd Legislature. One of our tasks was to study the problems of current and future financing of the Montana Judiciary and propose solutions. HB 188 is the result of our work, and it addresses the funding of our district courts.

District Court funding isn't a new problem. In 1990, I was a member of the state-wide committee, that studied this very same issue. HB 188 picks up where this Committee's work left off, and I believe it moves us one step closer to resolving the district court funding dilemma that has plagued so many counties for many years

HB 188 addresses the district court funding crisis by revising the responsibilities of the state and county governments in funding district courts. More Specifically, HB 188 proposes the following:

1. Establishing a state cost-sharing program with counties for certain district court expenses in civil proceedings. The eligible costs under this program are outlined in the attachment to my testimony. This program is similar to the currently-existing criminal reimbursement program; however, under this program the State would pay up to 50 per cent of the costs. The State's costs would be funded by imposing a statewide 0.1% light vehicle tax that would be statutorily appropriated.

2. Reducing the currently-existing 0.5% local option vehicle tax to 0.4% and eliminating the sunset provision on the distribution of tax revenue to counties and cities. The sunset is scheduled for July 1 of this year.

As you know, district courts are currently funded by the county's district court mill levy, miscellaneous revenues designated by statute, the state criminal reimbursement program, and the grant-in-aid programs. My county, like most counties throughout the state, levies the statutory maximum, but it isn't enough money to pay our District Court bills. The vehicle option tax has given us a way to try to keep up with the ever-rising costs of running our district court. Currently 37 of the 56 counties impose the light vehicle option tax. Many of these counties use this money to supplement their district court fund. Repealing the sunset provision from this option tax will guarantee the availability of additional dollars to county governments that can be used pay district court costs.

District Court funding has become increasingly difficult for several reasons:

1. I-105 has frozen our taxes at the 1986 level;

2. The State has decreased its level of contribution to District Courts;

3. Inflation has shrunk the value of our dollars.

4. County Commissions don't have total control over the District Court Fund. District Court Judges set wage levels for Court Reporters and Juvenile Probation Officers. County Commissioners must follow these court orders, and any other court payment directive, or we'll find ourselves in contempt of court.

We're responsible for paying the bills to operate the district court, but the law doesn't allow us to control the cost.

Custer County is an excellent example of what the local option tax means to counties. At the end of the 1992 fiscal year, Custer County's District Court fund deficit was $48,133. By imposing the local vehicle option tax, we ended last year with a positive cash balance.

However, even with the money generated by the option tax, funding district courts continues to be a problem for all counties because the costs are volatile, unpredictable and we don't have total control.

A gentleman by the name of Harry Jones succinctly summarizes the problems we face in funding our district courts:

> "[C]ourts are agencies of the government and fundamental court reform can be achieved only by political action. Our ... courts will never be structured and reinforced to sustain the burdens of the law explosion until it is brought home to the public at large that justice is everybody's business.[1]"

HB 188 will move us one step closer to solving our district court funding problem by:

1. Repealing the sunset provision on the local option vehicle tax.

2. Reaffirming that district court funding is a joint responsibility of counties and the State of Montana, by the State funding up to 50 per cent of each county's most volatile expenses in civil cases.

I urge your favorable consideration and support of HB 188. Thank you.

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[1] November 1994, Report to the 54th Legislature: Laying a Foundation for the Future of Montana's Judiciary: A Study of Court Finance and Administration; Judicial Unification and Finance Commission.

Appendix

Eligible expenses for the State Cost-sharing Program
for District Court Expenses in Civil Proceedings

1. Representation of indigent persons who are:

   (a) charged with a misdemeanor in justice court,

   (b) subject to civil commitment proceedings,

   (c) youths charged under the Montana Youth Court Act,

   (d) subject to child dependent and neglected proceedings;

2. Juvenile probation; and

3. Court reporters salaries in civil cases.

The State would pay up to 50% of the costs. To pay for the civil reimbursement program, HB 188 imposes a state-wide 0.1% light vehicle tax. Funding the 50/50 cost share would be statutorily appropriated for the above stated civil expenses.

EXHIBIT 3
DATE 1/20/95
HB 188

NANCY SWEENEY
CLERK OF DISTRICT COURT

Lewis and Clark County Courthouse
P. O. Box 158
Helena, Mt 59624-0158
447-8216

January 19, 1995

Rep. Chase Hibbard, Chairman
House Taxation Committee
Capitol Station
Helena, MT 59620

Dear Chairman Hibbard and members of the committee,

Lewis and Clark county is in the unique position of being the jurisdiction where a majority of the state litigation occurs. Venue of state litigation is permitted and many times mandated by state law. The rationale behind these laws are easily understood when viewed from the state's perspective of saving time and expenses by litigating cases in Helena where most of the state offices are located.

Although litigating cases in Lewis and Clark county is an effective management tool for the state, it places a heavy burden on Lewis and Clark county's district courts. A recent review of the records in my office indicated that in 1994 58% of the 2277 civil cases filed in Lewis and Clark county were initiated by the State of Montana on behalf of it's agencies. This percentage does not include any of the cases which were filed as a result of a state action or decision but initiated by someone other than the state, such as petitions for judicial review or tort cases. Although we did not have time to compile the statistics on civil cases in which the state was a defendant or respondent, a conservative estimate could attribute an additional 10 to 15% of Lewis and Clark county's civil case load to those type of actions. House Bill 188 would not provide compensation for the majority of cases I have referred to but it would provide for payment of up to 50% of certain district court expenses in civil proceedings.

Lewis and Clark county's disproportionate percentage of civil cases causes an additional financial disadvantage to the county under the criminal case reimbursement program. Some allowable expenses, such as court reporters' salaries, are based on a percentage of criminal cases to civil cases. The criminal case reimbursement program reimburses only 13% of our court reporters' salaries. There are only 3 counties out of the 56 that receive a smaller percentage than Lewis and Clark county. One of the reimbursable expenses included in House Bill 188 are court reporters' salaries in civil cases.

I am responsible for submitting Lewis and Clark county's request for criminal case reimbursement. This bill addresses many district court expenses which are not covered under that program and appropriately should be shared by the state. It is the public's right to have representation in cases brought by the state, even if an individual is unable to afford such representation. The county bears all expenses for indigent persons in cases which may result in incarceration for misdemeanor or juvenile expenses, involuntary commitment to the state mental hospital or removal or limitations of an individual's parental rights. Criminal case reimbursement covers less than 50% of our public defenders' salaries in Lewis and Clark county despite the fact that the public defender provides representation only to clients who are entitled to their services by law.

I would like to see the criminal case reimbursement program make allowances for state generated litigation in Lewis and Clark county and for the state to develop a system which would provide the district court in Lewis and Clark county with financial assistance for state litigation but those are issues to be considered another day and perhaps another forum. For now, House Bill 188 provides an important step forward in state assumption of constitutionally mandated public services for all counties and I would urge the committee to support this bill.

Sincerely,

NANCY SWEENEY

Nancy Sweeney
Clerk of District Court

EXHIBIT 4
DATE 1/20/95
HB 188

1994-95 (FY 95) LOCAL OPTION VEHICLE FEE

COUNTY	NO	YES	WHAT USED FOR AS of: October 27, 1994
BEAVERHEAD		.5	Road Department Equipment
BIG HORN	NO		
BLAINE	NO		
BROADWATER		.5	District Court & General Fund
CARBON		.5	General Fund
CARTER		.5	Rd. Fund 50%, remaining-1/2 General Fund & 1/2 Hosp. Bldg. Fund
CASCADE		.5	District Court & other relates fund
CHOUTEAU		.5	District Court/Personal Services
CUSTER		.5	District Court
DANIELS		.5	District Court
DAWSON		.4	General Fund
DEER LODGE	NO		
FALLON	NO		
FERGUS		.5	general fund, poor fund/dist court fund
FLATHEAD	NO		
GALLATIN		.5	Courts, Libraries, Road & Capitol Improvements
GARFIELD		.5	General Government
GLACIER			
GOLDEN VALLEY		.5	General Fund - Towns of Ryegate & Lavina
GRANITE	NO		
HILL		.5	Road, General and District Court
JEFFERSON		.5	Dit Court/funding general government operations
JUDITH BASIN		.5	District Court & General Fund
LAKE		.5	District Court
LEWIS & CLARK		.5	District & Justice Court Funding & Small Amt. to Co. Att.
LIBERTY		.5	General Government
LINCOLN		.5	70% General Fund, 30% General Fund
MADISON	NO		
MCCONE	NO		
MEAGHER		.5	General Fund
MINERAL		.5	Distributed to countywide levies for general government.
MISSOULA		.5	85% Dist Court/15% Rd Bridge/Museum Fund
MUSSELSHELL		.5	District Court
PARK	NO		
PETROLEUM	NO		
PHILLIPS	NO		

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Taxation COMMITTEE BILL NO. 188

DATE 1/20/95 SPONSOR(S) Rep. Wiseman

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
John W Larson	Judicial Nominations and Financial Commissioner			X
Kathleen D. Breiner	Clerk of Dist. Ct.	188		X
Vicki Hyatt	Stillwater Co	188		X
Mona Nutting	Carbon Co	188		X
Nancy Sweeney	Lewis & Clark County Clerk of Court			X
JANET B. Kelly	Custer CO. Commissioner			X
John Stephenson	Judicial Nominations & Financial Commission	188		X
Bob Bachini	Self	188	X	
Bill Vernon	City of Helena	188	✓	
Dennis Burr	MONTAX	188	✓	
Steve Turkiewicz	Mt Auto Dealers Assn	188	✓	
Gordon Morris	MACo	188		✓
Alec Hansen	MLCT	188		✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN CHASE HIBBARD**, on February 9, 1995, at 8:00 a.m.

ROLL CALL

Members Present:

Rep. Chase Hibbard, Chairman (R)
Rep. Marian W. Hanson, Vice Chairman (Majority) (R)
Rep. Robert R. "Bob" Ream, Vice Chairman (Minority) (D)
Rep. Peggy Arnott (R)
Rep. John C. Bohlinger (R)
Rep. Jim Elliott (D)
Rep. Daniel C. Fuchs (R)
Rep. Hal Harper (D)
Rep. Rick Jore (R)
Rep. Judy Murdock (R)
Rep. Thomas E. Nelson (R)
Rep. Scott J. Orr (R)
Rep. Bob Raney (D)
Rep. John "Sam" Rose (R)
Rep. William M. "Bill" Ryan (D)
Rep. Roger Somerville (R)
Rep. Robert R. Story, Jr. (R)
Rep. Emily Swanson (D)
Rep. Jack Wells (R)
Rep. Kenneth Wennemar (D)

Members Excused: None.

Members Absent: None.

Staff Present: Lee Heiman, Legislative Council
Donna Grace, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing:	HB 389
Executive Action:	HB 188 - Do Pass as Amended
	SB 139 - Do Concur

to present any position on the bill because, as evidenced by the testimony, there are counties on both sides of the issue.

REP. JORE asked Director Robinson to address the charges that the DOR provided computer-generated information to private organizations and that the state had taken control of the tax information and passed the charges back to the counties. **Mr. Robinson** said he "pleaded innocent" to the charge of taking control of the tax information because no changes have actually been made in the system and they continue to make sure that data that is manually input is timely and accurate. This system is an inefficient use of employees and they are moving toward electronic transfer. He said that the DOR has not transferred charges to the local governments. He said there may be charges for a computer vendor who must put information in an acceptable form to be entered into a county system but the DOR pays those charges. **Mr. Robinson** said he was not aware of any instance where the state had assessed a county for charges related to the transfer of information.

{Tape: 3; Side: B.}

Mary Whittinghill responded to Rep. Jore's other question relative to the transfer of information to a private organization. She said, unfortunately, that a list had been prepared using the DOR's computer system. The individual who received the information could have come to the state office and looked up the same information and produced a listing of the same information. The misunderstanding has been corrected and the DOR has assured that it would not happen again.

Closing by Sponsor:

In closing, **REP. LARSON** remarked that the passage of HB 389 would not prevent the state and counties from entering into the computer age. Passage of the bill would not undo HB 50. The bill simply allows the option for the unhappy counties to reconsolidate if they wish to do so. The need to make state and county computers compatible will still exist. The county commissioners have the same goals as the DOR because they want to streamline the system, make the information more accessible, become more accessible and more effective. In summary, he emphasized that the bill would clarify HB 50, satisfy the concerns of the counties and, allow them to get on with the modernization of the property tax assessment function.

EXECUTIVE ACTION ON HB 188

REP. ARNOTT, Chairperson of the Sub-Committee on HB 188, reported that the sub-committee had developed amendments to HB 188 which would eliminate the proposed changes proposed in the original statute and extend the sunset provision to ten years. EXHIBIT 10.

Motion:

REP. RYAN MOVED THAT HB 188 DO PASS.

Motion:

REP. RYAN MOVED THAT THE AMENDMENTS PROPOSED BY THE SUB-COMMITTEE DO PASS.

Discussion:

REP. HANSON said it appeared that the sunset provision was still in the bill. **REP. ARNOTT** explained that the sunset is now scheduled to occur in ten years.

Vote:

The motion to approve the amendments passed unanimously.

Motion:

REP. ARNOTT MOVED TO AMEND SECTION 5, SUB-SECTION 2, TO INCLUDE THE LANGUAGE, "THE FIRST PRIORITY OF THE LOCAL VEHICLE TAX SHALL BE COURT FUNDING AND BE DISTRIBUTED AS FOLLOWS:"

Discussion:

REP. NELSON said he understood that this would require that court funding would be the priority of the district courts and also the city courts.

Mr. Heiman said this should be clarified by inserting "district court funding" in place of "court funding." It would be a statement of intent rather than a distribution scheme.

Vote:

On a roll call vote, the motion passed 13 - 7.

Motion:

REP. STORY MOVED THAT HB 188 AS AMENDED DO PASS.

Discussion:

CHAIRMAN HIBBARD said Rep. Raney had left the meeting; however, he had suggested some amendments to HB 188.

Mr. Heiman said he had prepared two sets of amendments to the bill as proposed, prior to any amendment at this meeting, which would change the formula for distribution of the tax.

REP. FUCHS said he objected to the amendments because Rep. Raney had not attended the sub-committee meetings and also that he was not present to move the amendments.

REP. REAM explained that Rep. Raney was excused to attend another committee meeting and there would be no need to object because the amendments would not apply to the bill as now amended by the Committee.

Vote:

On a voice vote, the motion passed 20 - 0.

{Tape: 4; Side: A.}

EXECUTIVE ACTION ON SB 139

Motion/Vote:

REP. HANSON MOVED THAT SB 139 BE CONCURRED IN. On a voice vote, the motion passed 20 - 0.

HOUSE OF REPRESENTATIVES

Taxation

ROLL CALL DATE Feb. 9, 1995

NAME	PRESENT	ABSENT	EXCUSED
Rep. Chase Hibbard, Chairman	✓		
Rep. Marian Hanson, Vice Chairman, Majority	✓		
Rep. Bob Ream, Vice Chairman, Minority	✓		
Rep. Peggy Arnott	✓		
Rep. John Bohlinger	✓		
Rep. Jim Elliott	✓		
Rep. Daniel Fuchs	✓		
Rep. Hal Harper	✓		
Rep. Rick Jore	✓		
Rep. Judy Rice Murdock	✓		
Rep. Tom Nelson	✓		
Rep. Scott Orr	✓		
Rep. Bob Raney	✓		
Rep. Sam Rose	✓		
Rep. Bill Ryan	✓		
Rep. Roger Somerville	✓		
Rep. Robert Story	✓		
Rep. Emily Swanson	✓		
Rep. Jack Wells	✓		
Rep. Ken Wennemar	✓		

HOUSE STANDING COMMITTEE REPORT

February 9, 1995

Mr. Speaker: We, the committee on **Taxation** report that **House Bill 188** (first reading copy -- white) **do pass as amended.**

Signed: _____
Chase Hibbard, Chair

And, that such amendments read:

1. Title, lines 5 through 12.
Strike: "REVISING" on line 5 through "VEHICLES;" on line 12

2. Title, line 13.
Strike: "MAKING PERMANENT"
Insert: "EXTENDING"

3. Title, lines 14 through 17.
Strike: "RAISING" on line 14 through "COSTS" on line 16
Strike: "SECTIONS" on line 16 through the first "AND" on line 17
Insert: "SECTION"

Strike: "; REPEALING" on line 17
Insert: ","

4. Title, line 18.
Strike: "EFFECTIVE DATES"
Insert: "AN IMMEDIATE EFFECTIVE DATE"

5. Page 1, line 22 through page 9, line 2.
Following: enacting clause
Strike: the remainder of the bill in its entirety
Insert: "**Section 1.** Section 61-3-537, MCA, is amended to read:
"**61-3-537. (Temporary) Local option vehicle tax.** (1) A county may impose a local vehicle tax on vehicles subject to a property tax under 61-3-504(2) at a rate of up to 0.5% of the

Committee Vote:
Yes 20, No 0.

341252SC.Hbk

value determined under 61-3-503, in addition to the tax imposed under 61-3-504(2).

(2) A local vehicle tax is payable at the same time and in the same manner as the tax imposed under 61-3-504(2). The first priority of the local vehicle tax is for district court funding, and the tax is distributed as follows:

(a) 50% to the county; and

(b) the remaining 50% to the county and the incorporated cities and towns within the county, apportioned on the basis of population. The distribution to a city or town is determined by multiplying the amount of money available by the ratio of the population of the city or town to the total county population. The distribution to the county is determined by multiplying the amount of money available by the ratio of the population of unincorporated areas within the county to the total county population.

(3) The governing body of a county may impose, revise, or revoke a local vehicle tax ~~for a fiscal year~~ by adopting a resolution before July 1 ~~of the fiscal year~~, after conducting a public hearing on the proposed resolution. The resolution may provide for the distribution of the local vehicle tax. ~~(Terminates June 30, 1995 sec. 1, Ch. 217, L. 1993.)~~

61-3-537. (Effective July 1, ~~1995~~ 2005) Local option vehicle tax. (1) A county may impose a local vehicle tax on vehicles subject to a property tax under 61-3-504(2) at a rate of up to 0.5% of the value determined under 61-3-503, in addition to the tax imposed under 61-3-504(2).

(2) A local vehicle tax is payable at the same time and in the same manner as the tax imposed under 61-3-504(2) and is distributed in the same manner, based on the registration address of the owner of the motor vehicle.

(3) The governing body of a county may impose, revise, or revoke a local vehicle tax ~~for a fiscal year~~ by adopting a resolution before July 1 ~~of the fiscal year~~, after conducting a public hearing on the proposed resolution."

Section 2. Section 1, Chapter 217, Laws of 1993, is amended to read:

"Section 1. Section 4, Chapter 749, Laws of 1991, is amended to read:

"Section 4. **Termination.** [This act] terminates June 30, ~~1993~~ ~~1995~~ 2005.""

Section 3. Section 4, Chapter 749, Laws of 1991, is amended to read:

"Section 4. **Termination.** [This act] terminates June 30, ~~1993~~ 2005."

NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval."

-END-

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

DATE 2/9/95 BILL NO. 188 NUMBER 2

MOTION: Amendment to add "dist point"

NAME	YES	NO
Vice Chairman Marian Hanson	✓	
Vice Hairman Bob Ream		✓
Rep. Peggy Arnott	✓	
Rep. John Bohlinger	✓	
Rep. Jim Elliott		✓
Rep. Daniel Fuchs	✓	
Rep. Hal Harper		✓
Rep. Rick Jore	✓	
Rep. Judy Rice Murdock	✓	
Rep. Tom Nelson	✓	
Rep. Scott Orr	✓	
Rep. Bob Raney		✓
Rep. Sam Rose	✓	
Rep. Bill Ryan	✓	
Rep. Roger Somerville	✓	
Rep. Robert Story		✓
Rep. Emily Swanson		✓
Rep. Jack Wells	✓	
Rep. Ken Wennemar		✓
Chairman Chase Hibbard	✓	

13

RPT. LCB4 FINAL COMMITTEE REPORT OF REFERRED BILLS RUN TIME 17:22
RUN DATE.... 04/07/95

SENATE TAXATION

CHAIRMAN--GERRY DEVLIN
SECRETARY-RENEE PODELL
NORMAL SCHEDULE => SITE: ROOM 413/415 DAYS: M,T,W,T,F TIME: 8:00 A.M.

BILL NO	REFERRED	HEARING	OTHER CONSIDERATION DATES	EXECUTIVE ACTION/DATE/VOTE			REREFERRED	DATE READ
HB0038	HARRINGTON, DAN 1/12	1/18	CLARIFY THE RESOURCE INDEMNITY TRUST TAX ON CERTAIN MINERALS	CONCUR	1/18	VOTE:		1/18
HB0055	BOHLINGER, JOHN 2/20		CONFORM CHILD SUPPORT INCOME DEDUCTION ACT TO FEDERAL REGULATIONS	REREFFERED TO JUDICIARY		VOTE:	JUDICIARY	
HB0090	FELAND, GARY 3/21	3/27	EXEMPT FIRST 3 BARRELS OF STRIPPER OIL FROM STATE SEVERANCE TAX	CONCUR AS AMENDED	4/7	VOTE:		4/07
HB0096	LARSON, DON 1/24	2/07	EXEMPT SPECIAL DISTRICT VEHICLES FROM REGISTRATION FEES AND SALES TAX	CONCUR	2/7	VOTE:		2/07
HB0141	STORY, ROBERT 1/28	2/08	REVISE VARIOUS ADMINISTRATIVE REQUIREMENTS & RESTRICTIONS IN RE FUEL TAXES	CONCUR	3/6	VOTE:		3/06
HB0144	HARRINGTON, DAN 1/21	2/09	REPEALING 15-1-105 RELATING TO ALLOCATION OF CERTAIN TAX FINES	CONCUR	3/6	VOTE:		3/06
HB0164	HARPER, HAL 1/28	2/06	TAX ON COMPRESSED NATURAL GAS; LICENSING; RECORDS; ADMINISTRATION; ENFORCE	CONCUR AS AMENDED	3/6	VOTE:		3/06
HB0171	MERCER, JOHN 1/23	1/26	THE EXCESS TAX REFUND AGREEMENT (EXTRA); 1995 REFUND OF EXCESS FUND BALANCES	CONCUR	1/26	VOTE:		1/26
HB0188	WISEMAN, WILLIAM 2/20	3/06	REQUIRE PUBLIC HEARING BEFORE LOCAL OPTION TAX ON LIGHT VEHICLES IS CHANGED	CONCUR	3/9	VOTE:		3/09
HB0199	ELLIOTT, JIM 2/20	3/06	MAKE PERMANENT TAX CREDIT FOR CONTRIBUTIONS TO U-SYSTEM AND PRIVATE COLLEGES	CONCUR	3/6	VOTE:		3/06
HB0209	COBB, JOHN 3/21	3/27	REVISE MONTANA STATE INCOME TAX BY PROVIDING A MINIMUM STANDARD DEDUCTION	CONCUR	3/29	VOTE:		3/30

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN GERRY DEVLIN**, on March 6, 1995, at 8:00 a.m.

ROLL CALL

Members Present:
Sen. Gerry Devlin, Chairman (R)
Sen. Mike Foster, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. Delwyn Gage (R)
Sen. Lorents Grosfield (R)
Sen. John G. Harp (R)
Sen. Dorothy Eck (D)
Sen. Barry "Spook" Stang (D)
Sen. Fred R. Van Valkenburg (D)

Members Excused: **SEN. JOHN HARP**

Members Absent: None

Staff Present: Jeff Martin, Legislative Council
Renée Podell, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: HB 188, HB 199
Executive Action: HB 188, HB 199, HB 141, HB 144, HB 164

HEARING ON HB 199

Opening Statement by Sponsor:

REP. JIM ELLIOTT, HD 72, Trout Creek, explained the legislature passed a bill in 1991 which allowed people who make contributions to private and public universities, and colleges in the State of Montana a 10% income tax credit on their donations. He said the credit is good up to an amount of $500.00 off their taxes. **REP. ELLIOTT** commented the law sunsets on December 31st of this year and this bill will repeal the sunset. He reported

this has been a successful program, which in 1992 raised 3/4 of a million dollars for the university system.

Proponents' Testimony:
Jeff Baker, Commissioner of Higher Education, endorsed the bill on the part of the Commissioner's Office and the Board of Regents.

Marilynn Weisel, Montana State University and it's campuses including the foundations from the three campuses, commented this bill has been very helpful to them in the last two years and urged support for the bill.

Bob Frazier, Campuses of the University of Montana, reported the primary use of funds of this type are student scholarships and equipment. He urged continuation of the tax credit.

Opponents' Testimony:

None

Informational Testimony:

None

Questions From Committee Members and Responses:

SEN. DELWYN GAGE asked **Dr. Baker** if any Indian Colleges in Montana qualify for this credit. **Dr. Baker** responded they do not qualify.

CHAIRMAN DEVLIN asked **Mr. Frazier** if there are administration costs. **Mr. Frazier** stated the administration costs, which is the costs to manage the money, is 5%.

Closing by Sponsor:

REP. ELLIOTT commented when the bill was heard in the House, David Owen and Russ Ritter testified as proponents to the bill.

HEARING ON HB 188

Opening Statement by Sponsor:

REP. WILLIAM WISEMAN, HD 41, Great Falls, explained funding civil courts has been a problem in Montana since the mid-80's. He commented the vehicle option tax has been extended and will sunset. He reported a commission met to discuss how to fund civil courts and determined a permanent 1/10th of 1% tax should be put on vehicles across the state. **REP. WISEMAN** stated this would raise enough money to form a pool for the smaller counties who have large unexpected civil court hearings. He said the smaller counties could be reimbursed out of the pool. He commented it is scheduled to sunset in July.

Proponents' Testimony:

Gordon Morris, Director of Montana Association of Counties, reported this is a major issue for counties across Montana. He stated there are currently 37 counties that access a portion of the local option vehicle tax up to the .5 currently allowed under the law. He said without the sunset being extended through the year 2005 the tax itself will not go away. **Mr. Morris** acknowledged the local option tax will continue with or without the sunset provision.

Larry Fasbender, Cascade County Commissioners, urged support for HB 188.

Pat Chenovick, Administrator, Supreme Court, supported this legislation because it allows revenue to be raised to support District Court activities.

Alex Hanson, League of Cities and Towns, stated this law has been in effect for several years and the majority of the cities and towns rely on the local option tax to provide supplemental funding that many desperately need under I-105.

Opponents' Testimony:

None

Informational Testimony:

None

Questions From Committee Members and Responses:

SEN. GAGE asked **Mr. Morris** if the first priority of the local option tax is for District Court. **Mr. Morris** commented this law is currently on the statutes and is due to sunset in July. He explained the county portion has to be dedicated principally to the District Court's financial problems.

SEN. MACK COLE asked **Mr. Morris** how long this bill has been in effect. **Mr. Morris** responded the local option vehicle tax has been on the books since 1985. He stated he prefers no sunset. **SEN. COLE** asked **Mr. Morris** if use of the local option tax has been increasing. **Mr. Morris** stated on an annual basis upward of three counties have adopted the tax.

CHAIRMAN DEVLIN asked **Mr. Morris** how long the counties hold on to the money before they use it for something rather than District Court. **Mr. Morris** acknowledged the law states any decision to implement a local option tax must be in place prior to July 1st. He stated the counties have to budget the money as anticipated revenue in the District Court Fund, or in other funds.

SEN. DOROTHY ECK asked **REP. WISEMAN** what kind of system he had in mind with what was stricken in the House out of the bill. **REP. WISEMAN** stated the fund would have been a Contingency Fund to literally work like the Criminal Contingency Fund currently works. **REP. ECK** stated in the small counties the amount of additional revenue that they would get by imposing this tax isn't going to be enough. She asked **REP. WISEMAN** what do the counties do when they can't cover the costs of an expensive suit. **REP. WISEMAN** said this is an insurance policy for the small rural counties and a source of funds to finance the civil costs that routinely go on.

Closing by Sponsor:

REP. WISEMAN commented the fiscal note doesn't have any bearing whatsoever, because that is what would have been raised if the 1/10 of 1% tax had gone through statewide. He stated this legislation is just extending the present system.

{Tape: 1; Side: A; Approx. Counter: 26.2;.}

EXECUTIVE ACTION ON HB 188

Motion/Vote: **SEN. COLE MOVED HB 188 BE CONCURRED IN. MOTION FAILED 3 - 5** on a roll call vote.

Motion/Vote: **SEN. MIKE FOSTER MOVED TO TABLE HB 188. MOTION FAILED 3 - 5** on a roll call vote.

Discussion: **SEN. ECK** commented it would help the committee to look at the original bill. **Mr. Jeff Martin** said he would locate the original bill for the committee's review.

SEN. COLE asked if this bill is a major change. **CHAIRMAN DEVLIN** responded the only change is the priority.

SEN. GAGE commented residents in his area simply don't like the option.

CHAIRMAN DEVLIN suggested committee action wait until **Mr. Martin** locates the original bill.

EXECUTIVE ACTION ON HB 199

Motion/Vote: **SEN. LORENTS GROSFIELD MOVED HB 199 BE CONCURRED IN. MOTION CARRIED UNANIMOUSLY.**

EXECUTIVE ACTION ON HB 141

Motion: **SEN. ECK MOVED HB 141 BE CONCURRED IN.**

Discussion: **CHAIRMAN DEVLIN** questioned why Section 3 has a January 1, 1996 date different from the other sections. **SEN. GAGE** responded Section 3 deals with full storage tanks.

MONTANA SENATE
1995 LEGISLATURE
TAXATION COMMITTEE

ROLL CALL DATE March 6, 1995

NAME	PRESENT	ABSENT	EXCUSED
MACK COLE	✓		
DELWYN GAGE	✓		
LORENTS GROSFIELD	✓		
JOHN HARP			✓
DOROTHY ECK	✓		
BARRY "SPOOK" STANG	✓		
FRED VAN VALKENBURG	✓		
MIKE FOSTER, VICE CHAIRMAN	✓		
GERRY DEVLIN, CHAIRMAN	✓		

Left to present bill 8:45

SEN:1995
wp.rollcall.man
CS-09

MONTANA SENATE
1995 LEGISLATURE
TAXATION COMMITTEE
ROLL CALL VOTE

DATE March 6, 1995 BILL NO. HB 188 NUMBER 1

MOTION: Do Concur

NAME	AYE	NO
GERRY DEVLIN, CHAIRMAN	✓	
MACK COLE	✓	
DOROTHY ECK		✓
DELWYN GAGE		✓
LORENTS GROSFIELD	✓	
JOHN HARP		
BARRY "SPOOK" STANG		✓
FRED VAN VALKENBURG		✓
MIKE FOSTER, VICE CHAIRMAN		✓
	3	5

SEN:1995
wp:rlclvote.man
CS-11

MONTANA SENATE
1995 LEGISLATURE
TAXATION COMMITTEE
ROLL CALL VOTE

DATE March 6, 1995 BILL NO. HB 188 NUMBER 2

MOTION: TABLE

NAME	AYE	NO
GERRY DEVLIN, CHAIRMAN		✓
MACK COLE		✓
DOROTHY ECK		✓
DELWYN GAGE	✓	
LORENTS GROSFIELD		✓
JOHN HARP		
BARRY "SPOOK" STANG	✓	
FRED VAN VALKENBURG		✓
MIKE FOSTER, VICE CHAIRMAN	✓	
	3	5

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FAILED

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN GERRY DEVLIN**, on March 9, 1995, at 8:00 a.m.

ROLL CALL

Members Present:
Sen. Gerry Devlin, Chairman (R)
Sen. Mike Foster, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. Delwyn Gage (R)
Sen. Lorents Grosfield (R)
Sen. John G. Harp (R)
Sen. Dorothy Eck (D)
Sen. Barry "Spook" Stang (D)
Sen. Fred R. Van Valkenburg (D)

Members Excused: None

Members Absent: None

Staff Present: Jeff Martin, Legislative Council
Renée Podell, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: SB 413, SB 417
Executive Action: HB 188, SB 176

HEARING ON SB 413

Opening Statement by Sponsor:

SEN. GARY FORRESTER, SD 8, Billings, commented SB 413 is a simple, honest bill in it's approach and begins in 1986. He stated it will reduce personal property tax combining class 8 and class 4 personal properties into one taxing unit at 3.6%. **SEN. FORRESTER** explained it will cost $55 million the first year. He stated it will reimburse counties with a block grant proposal.

Proponents' Testimony:

Dennis Burr, Montana Taxpayers Association, said SB 413 is a road map as to where we need to get to in the future. He explained SB 413 simply returns the burden of tax to where it was 20 years

money will go to streets and roads in Montana cities and counties.

SEN. HARP said he recalls the hearing on the 26th of January. He said the comments made by the sponsor of this bill were very political. **SEN. HARP** stated the committee realizes if the 5¢ gas tax was eliminated the legislature would be back here in two years asking for additional taxes. He said the way the highway program is presently situated, Montana challenges will be met for a decade. He explained he has been an advocate of the highway program as much as anyone has. **SEN. HARP** declared this bill was introduced strictly for one reason, and that reason is politics.

Motion/Vote: **SEN. HARP MOVED TO TABLE SB 176. MOTION CARRIED** 6 - 2 on roll call vote.

EXECUTIVE ACTION ON HB 188

Motion: **SEN. COLE MOVED HB 188 BE CONCURRED IN.**

Discussion: **SEN. STANG** stated he is opposed to the ½% tax.

Vote: **MOTION CARRIED 6 - 1 WITH SEN. STANG VOTING IN OPPOSITION.**

ADJOURNMENT

Adjournment: 10:58 a.m.

Sen Gerry Devlin
GERRY DEVLIN, Chairman

Renée J. Podell
RENEE J. PODELL, Secretary

GD/rp

MONTANA SENATE
1995 LEGISLATURE
TAXATION COMMITTEE

ROLL CALL DATE March 9, 1995

NAME	PRESENT	ABSENT	EXCUSED	
MACK COLE	✓			
DELWYN GAGE	✓		✓	PRESENTING BILL OUT OF COMM. (RETURNED 8:05A.M.) left 9:30
LORENTS GROSFIELD	✓			
JOHN HARP	✓			
DOROTHY ECK	✓			
BARRY "SPOOK" STANG	✓		✓	ARR. 8:35A.M PRESENTING BILL OUT OF COMM.
FRED VAN VALKENBURG	✓			LEFT 8:10A.M ARR. 9:30
MIKE FOSTER, VICE CHAIRMAN	✓			LEFT 9:03 ARR. 9:13
GERRY DEVLIN, CHAIRMAN	✓			

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SENATE STANDING COMMITTEE REPORT

March 9, 1995

MR. PRESIDENT:

We, your committee on Taxation having had under consideration HB 188 (third reading copy -- blue), respectfully report that HB 188 be concurred in.

Signed: Gerry Devlin
Senator Gerry Devlin, Chair

Amd. Coord.
Sec. of Senate

SEN. COLE
Senator Carrying Bill

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